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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/697,478	10/30/2003	Yung-Ming Huang	930074-2014	7415
20999	7590	05/23/2005	EXAMINER	
FROMMER LAWRENCE & HAUG 745 FIFTH AVENUE- 10TH FL. NEW YORK, NY 10151			MAI, HUY KIM	
			ART UNIT	PAPER NUMBER
			2873	

DATE MAILED: 05/23/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

AK

Office Action Summary

Application No.

10/697,478

Applicant(s)

HUANG YUNG-MINGH

Examiner

Huy K. Mai

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 21 March 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-3 and 5-7 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-3 and 5-7 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 30 October 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

Claim Rejections - 35 USC § 112

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claim 5 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

The phrase "said eyeglass assembly" (claim 5, line 18) has no antecedent basis.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 1 and 5 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ifergan (6,820,976) in view of Nakamura (2002/0191149).

Ifergan discloses in Figs. 13-27 an eyeglass assembly comprising a primary eyeglass unit including two primary lenses, a bridge having two opposite ends that are connected respectively and fixedly to said primary lenses, and a first magnet unit fixed on said bridge; and an auxiliary eyeglass unit including two auxiliary lenses disposed respectively in front of said primary lenses, a connecting member 132,56e connected fixedly to said auxiliary lenses, and a magnetic connector 130 connected pivotally to said connecting member so as to permit an assembly of

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said connecting member and said auxiliary lenses to turn upwardly relative to said primary eyeglass unit, said magnetic connector including a fixed second magnet unit attached magnetically by said first magnet unit of said primary eyeglass unit such that said magnetic connector is attached to said bridge of said primary eyeglass unit. However the connecting member as rims to support and hold the auxiliary lenses instead of connecting fixedly to outer peripheries of rear side surfaces of said auxiliary lenses as claimed. The applicant does not provide the reasons why such a connecting member needs to be connected fixedly to outer peripheries of rear side surfaces of said lenses instead of forming a rim for providing the same function of supporting and holding the lenses. The technique of using a connecting member connected fixedly to outer peripheries of rear side surfaces of said lenses for supporting and holding the lenses is known in the art as taught by Nakamura, for example. Therefore, it would have been obvious at the time the invention was made to those skilled in this art to modify the Ifergan's eyeglass assembly in light of Nakamura's teachings by forming a connecting member connected fixedly to outer peripheries of rear side surfaces of said lenses for providing the same reasons of supporting and holding the lenses as disclosed by Ifergan and Nakamura.

5. Claims 2 and 6 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ifergan in view of Nakamura as applied to claims 1 and 5 above, and further in view of Ku (6,053,611).

The claimed invention as claimed in claims 2 and 6 are shown in Ifergan in view of Nakamura's device as discussed above, except for the U-shape of the magnetic connector. Ku disclosed an U-shaped magnetic connector for attaching auxiliary eyeglasses to primary eyeglasses. It would have been obvious to an artisan to modify the Ifergan in view of Nakamura's device taken into

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the consideration of Ku's teachings to form a magnetic connector having a U-shape for attaching the auxiliary eyeglass unit to the primary eyeglass unit as the same as the applicant does.

6. Claims 3 and 7 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ifergan in view of Nakamura.

Since one material has properties better than another material, it would have been obvious to a worker having general skill in this art to select a known material on the basis of its suitability for intended use as a matter of obvious design choice. *In re Leshin*, 125 USPQ 416

Conclusion

7. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Huy Mai whose telephone number is (571) 272-2334. The examiner can normally be reached on M-F (8:00 a.m.-4:30 p.m.).

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Georgia Y. Epps can be reached on (571) 272-2328. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (571) 272-1562.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Huy Mai
Primary Examiner
Art Unit 2873

HKM/
May 20, 2005